

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Carmen Carter,
Plaintiff

Case No. 1:00-cv-739

vs

The E.W. Scripps Company,
Defendants

ORDER
(Spiegel, J.; Hogan, M.J.)

This matter is before the Court on plaintiff's motions for appointment of counsel on appeal (Doc. 89) and for leave to proceed *in forma pauperis*. (Doc. 93).

Plaintiff filed a notice of appeal in this matter on November 5, 2003. (Doc. 79). At that time, plaintiff paid the full filing fee of \$255.00. (Doc. 79, attachment). Plaintiff subsequently filed a second notice of appeal from the Court's Order denying her motion to vacate court order (Doc. 83) which the Court construed as a motion for relief from judgment pursuant to Fed. R. Civ. P. 60(b). (Doc. 94). Under the Federal Rules of Appellate Procedure, plaintiff need not file an additional fee to file an amended notice of appeal. Fed. R. App. P. 4(a)(4)(B)(iii). Accordingly, to the extent plaintiff seeks leave to appeal *in forma pauperis*, the motion is DENIED as moot.

Plaintiff's motion for appointment of counsel on appeal is DENIED. For the reasons stated in the Court's order granting summary judgment for defendant (Doc. 77), plaintiff's claims lack merit. This factor weighs against appointment of counsel.

See Leon v. Fed. Reserve Bank of Chicago, 823 F.2d 928, 930 (6th Cir. 1987).

Plaintiff is free to file a motion in the Court of Appeals for the appointment of counsel. *See* 28 U.S.C. § 1915(c).

IT IS SO ORDERED.

Date: 8/6/2004

s/Timothy S. Hogan
Timothy S. Hogan
United States Magistrate Judge

J:\KLL\00-739ifp-appeal2.wpd